



U.S. FISH AND WILDLIFE SERVICE TRANSMITTAL SHEET

PART	SUBJECT	RELEASE NUMBER
226 FW 1	Personnel Hours of Duty	436
FOR FURTHER INFORMATION CONTACT Division of Human Resources		DATE December 17, 2003

EXPLANATION OF MATERIAL TRANSMITTED:

This chapter establishes policy and guidance for the overall administration of hours of duty within the Fish and Wildlife Service. It includes guidance relating to the daily and weekly scheduling of work, alternative work schedules (flexible and compressed), legal holidays, and administrative dismissals.


[Acting] DIRECTOR

FILING INSTRUCTIONS:

Remove:

226 FW 1, 12/05/95, FWM 231
Exhibit 1, 226 FW 1, 12/05/95, FWM 231
Exhibit 2, 226 FW 1, 12/05/95, FWM 231

Insert:

226 FW 1, 12/17/03, FWM 436
Exhibit 1, 226 FW 1, 12/17/03, FWM 436
Exhibit 2, 226 FW 1, 12/17/03, FWM 436
Exhibit 3, 226 FW 1, 12/17/03, FWM 436

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1.1 What is the purpose of this chapter? This chapter establishes policy and guidance for the overall administration of hours of duty within the Fish and Wildlife Service (Service). It includes guidance relating to the daily and weekly scheduling of work, alternative work schedules (flexible and compressed), legal holidays, and administrative dismissals.

1.2 To whom does this chapter apply? This chapter applies to all Service employees.

1.3 What is Service policy with respect to hours of duty? It is the policy of the Service to establish hours of duty that result in the most efficient use of human resources, equipment, and facilities. To the extent possible and to minimize overtime costs, employees with regular work schedules will accomplish work within a 40-hour workweek. Employees on flexible and compressed work schedules have an 80-hour biweekly period for accomplishing nonovertime work.

1.4 What are the objectives of this chapter? The policies and procedures prescribed in this chapter are provided to:

A. Ensure Servicewide consistency in the establishment of uniform hours of duty while maintaining flexibility to allow for necessary local variations.

B. Inform supervisors and managers of viable options for scheduling the workday and workweek to promote the most efficient use of staff resources and to facilitate work accomplishment in unusual or uncommon situations.

1.5 What are the authorities that govern hours of duty?

A. 5 U.S.C. 61.

B. 5 CFR 610.

C. 370 DM 610.

1.6 What are the definitions for some terms used in this chapter?

A. Administrative workweek. A period of 7 consecutive calendar days. The administrative workweek for Service employees is normally Sunday through Saturday.

B. Alternative work schedules. Both flexible and compressed work schedules.

C. Basic workweek. For full-time employees, a 40-hour week that does not extend over more than 6 of any 7 consecutive days and that specifies the days and hours within the administrative workweek constituting the basic workweek. The basic workweek for an employee serving

under a first 40-hour tour of duty (i.e., a tour without the requirement for specific days and hours within the administrative workweek) is the first 40 hours of work performed within a period of not more than 6 days of the administrative workweek. Although the first 40-hour tour of duty may be used in any situation when deemed necessary, it is typically used for an employee engaged in professional or technical engineering or scientific activities who is assigned to perform the duties of a professional or support technician position in the physical, mathematical, natural, medical, or social sciences or in engineering or architecture. Because a flexible or compressed work schedule may provide for a tour of duty that is other than the standard 40-hour workweek, an employee on either of these schedules has a basic work requirement rather than a basic workweek. For a part-time employee, the basic workweek is the specific days and hours the employee is officially scheduled to work during the administrative workweek.

D. Basic work requirement. The same as basic workweek in terms of establishing a scheduled tour of duty for employees on flexible or compressed work schedules. It comprises the number of daily and biweekly hours, excluding overtime hours, that an employee must work or account for by charging leave, credit hours, excused absence, holiday hours, compensatory time off, or time off as an award. The basic work requirement for a full-time employee is 80 hours for the 2-week period constituting the pay period. For a part-time employee, it is the number of hours the employee is officially scheduled to work within the same 2-week period. All work performed by an employee within the basic work requirement is regularly scheduled work for premium pay and hours of duty purposes.

E. Biweekly pay period. The 2-week period for which an employee is scheduled to perform work.

F. Compressed schedule. For a full-time employee, an 80-hour biweekly basic work requirement that is scheduled for a period that is less than 10 workdays. For a part-time employee, a compressed schedule has a basic work requirement that is less than 80 hours that is scheduled for a period that is less than 10 workdays and that may require the employee to work more than 8 hours in a day.

G. Core Hours. The time periods during the workday, workweek, or pay period that are within the tour of duty during which an employee must be present for work. In their plan for a flexible work schedule, Regional Directors; Manager, California/Nevada Operations Office (CNO); Chief, Law Enforcement; and Assistant Directors may occasionally allow for employees to be absent during core hours and make up that time during the same workday, with prior supervisory approval.

H. Credit hours. Those hours within a flexible work schedule that an employee elects to work (subject to

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supervisory approval) in excess of his or her basic work requirement so as to vary the length of a workweek or workday.

I. Emergency situation. A situation where a significant number of employees are prevented from reporting for work on time or where responsible officials in an area must temporarily shut down part or all of their activities. Area-wide emergencies usually are announced by State or local authorities in public warnings or declarations of an emergency or a disaster; e.g., snow warnings, severe icing conditions, floods, earthquakes, hurricanes, air pollution, power failures, or interruption of public transportation. Some emergencies, such as equipment failures, fires, or lapsed appropriations, may affect only a part of an area or a limited number of employees in the area.

J. Emergency employees. Those who occupy critical positions; i.e., those jobs that may be vital to public health, safety, welfare, national defense, or the operation of essential facilities or functions.

K. Excused absence. Commonly referred to as administrative leave. An employee absence approved by a supervisor for which there is no charge made to the employee's annual or sick leave account. The appropriate official must charge the absence to the appropriate category of administrative leave. See 226 FW 2 for policy guidance for the very limited use of excused absence within the Service.

L. Flexible work schedule. A work schedule that:

(1) In the case of a full-time employee, has an 80-hour biweekly basic work requirement that allows an employee to determine his or her own schedule within the limits set by

the supervisor in accordance with the requirements and guidance set forth in this chapter.

(2) In the case of a part-time employee, has a biweekly basic work requirement of less than 80 hours that allows an employee to determine his or her own schedule within the limits set by the supervisor in accordance with the requirements and guidance set forth in this chapter.

M. Flexible time (flexitime). The portion of the workday during which an employee has the option to select and/or vary starting and quitting times within the limits established by regulation and his/her supervisor.

N. Flexitour. A flexible work schedule in which an employee is allowed to select starting and stopping times within the flexible hours. Once selected, the hours are fixed until the supervisor provides an opportunity to select different starting and stopping times.

O. Gliding schedule. A type of flexible work schedule in which a full-time employee who has a basic work requirement of 8 hours in each day and 40 hours in each week may select a starting and stopping time each day and may change starting and stopping times daily within the established flexible hours.

P. Intermittent employee. An employee who does not have a regularly scheduled tour of duty and who works on an as needed basis.

Q. Maxiflex schedule. A type of flexible work schedule that contains core hours on fewer than 10 workdays in the pay period and in which a full-time employee has a basic work requirement of 80 hours for the pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established under this chapter and by the supervisor.

R. Regularly scheduled administrative workweek. For a full-time employee, the period within an administrative workweek that the employee is regularly scheduled to work. For a part-time employee, the officially prescribed days and hours within an administrative workweek that the employee is regularly scheduled to work.

S. Regularly scheduled work. Work that is scheduled before the beginning of an employee's administrative workweek.

T. Tour of duty. Hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek. Under a flexible schedule, it means the limits a supervisor sets within which an employee must complete his/her basic work requirement. Under a compressed work schedule or other fixed schedule, tour of duty is synonymous with basic work requirement.

U. Variable day schedule. Type of flexible work schedule containing core hours on each workday in the week and in which a full-time employee has a basic work requirement of 40 hours in each week of the pay period, but in which an employee may vary the number of hours worked on a given workday within the week within the limits established for the work unit, as authorized in this chapter.

V. Variable week schedule. A type of flexible work schedule containing core hours on each workday in a pay period and in which a full-time employee has a basic work requirement of 80 hours for the pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week within the limits established for the work unit, as authorized in this chapter.

W. Work unit. An entity located in one place with a specific mission, with homogeneous procedures or

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technology, and headed by a supervisor or manager authorized to certify time and attendance reports and approve leave.

1.7 Who has responsibilities under this chapter?

A. The **Director** is responsible for the establishment and utilization of hours of work in the Service.

B. The Assistant Director - Budget, Planning, and Human Resources, serves as the advisor to the Director and oversees the orderly, uniform, and effective administration of regulatory mandates and Departmental policies prescribed for the various aspects of hours of duty discussed in this chapter.

C. Regional Directors; CNO Manager; Chief, Law Enforcement; and Assistant Directors have responsibility for overseeing the effective administration of regulations and policies pertaining to hours of duty and related areas within the constraints of this chapter within their areas of jurisdiction. In addition, these officials are responsible for:

(1) When necessary, approving variations in the administrative workweek, including unusual daily tours of duty and workweeks that are other than the normal (Sunday through Saturday) calendar week.

(2) When necessary, approving the establishment of workweeks that include regularly scheduled overtime and standby duty.

(3) Establishing and terminating flexible and compressed work schedules in accordance with guidance in 1.15, 1.16, and 1.17, below. Regional Directors/CNO Manager may further assign responsibility for establishing flexible and compressed work schedules to Assistant Regional Directors/Assistant Managers.

(4) When necessary, granting administrative dismissals of employees. Regional Directors/CNO Manager may further assign responsibility for granting administrative dismissals as they deem necessary. Regional Directors/CNO Manager must document this delegation in writing.

D. The **Chief, Division of Human Resources** formulates and disseminates Servicewide policy and procedures based upon regulatory issuances and Departmental directives and serves as technical advisor to servicing human resources officers on all matters discussed in this chapter.

E. Servicing Human Resources Officers provide technical advice and counsel to serviced supervisors, managers, and employees on all matters relating to hours of duty and the establishment of workweeks and work schedules.

F. Supervisors are responsible for maintaining sufficient knowledge of and utilizing the various authorized work schedules to meet the requirements of their mission and for establishing a time accounting method that will provide adequate evidence that each employee under an alternative work schedule has worked the number of hours certified on the employee's time sheet. Supervisors are further responsible for ensuring that all entries on the time sheet are correct, employees have actually worked the stated number of hours, and all absences have been properly accounted for and documented.

1.8 How do management officials establish workweeks? For pay and leave purposes, the administrative workweek for the Service is 7 consecutive calendar days, Sunday through Saturday. If the exigencies of the public service so require, the administrative workweek need not coincide with the calendar week. However, when management officials have determined a necessity to change the administrative workweek to something other than Sunday through Saturday, they must document the change and the reasons for it in writing. Supervisors will assign tours of duty with as much advance notice to employees as possible, but they will give at least 1 week advance notice, whenever possible. Before establishing the workweeks of employees, responsible officials should first assess the operational work requirements and then decide which of the following options will provide the most effective medium for accomplishing the work or other mission-oriented exigencies of the public service.

A. Administrative Workweek. The Sunday through Saturday administrative workweek is the standard for the Service. It includes a basic nonovertime workweek of 40 hours for full-time employees and the prescribed tour of duty for part-time employees and specifies the days and hours included in an employee's regularly scheduled administrative workweek. Intermittent employees do not have regularly scheduled administrative workweeks since they do not have a scheduled tour of duty. When work demands consistently require employees to perform work in excess of 40 hours a week, supervisors should establish or recommend to an authorized official that a regularly scheduled administrative workweek be established to include specific instances of overtime or standby duty, as appropriate.

B. First 40-Hour Tour of Duty. Within the Service, a supervisor will employ this tour of duty only in extremely rare instances. When a supervisor finds that there is no other method of prescribing a regular schedule of definite hours for each workday of a regularly scheduled administrative workweek, he/she may find it necessary to employ this type of work schedule. Because the assignment of this tour of duty exposes the Service to the potential of incurring additional premium pay costs, supervisors must document in writing the need for assigning

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this type of work schedule. Supervisors should not use this work schedule as a permanent arrangement. It is in the best interest of the Service and its employees for supervisors to determine, in advance of the administrative workweek, the work schedules for all of their employees. In situations where this is not possible, if the employee is a full-time employee, the first 40 hours of work performed within a period of not more than 6 days of the administrative workweek may be established as the basic workweek. All work performed by an employee within the first 40 hours is considered regularly scheduled work for premium pay and hours of duty purposes. Any additional hours of officially ordered or approved work within the administrative workweek are overtime work.

C. Standby Time. When an employee has a tour of duty that includes a period during which he/she remains at or within the confines of his/her station in a standby status rather than performing actual work, his/her regularly scheduled administrative workweek is the total number of regularly scheduled hours of duty a week including time in a standby status except that allowed for sleep and meals. For standby employees serving on a rotating shift system, the supervisor may adopt the two-thirds rule: two-thirds of each hour on the job to represent time in a pay status and one-third as time out for sleeping and eating.

D. Flexible or Compressed Work Schedules. Another alternative available to management officials for establishing workweeks is the use of flexible or compressed work schedules. However, because the workweeks for the various types of flexible and compressed schedules may not conform, in most instances, to the standard 40-hour week, officials must establish a basic work requirement (rather than a basic workweek) for full-time and part-time employees. All work performed by an employee within the basic work requirement is considered regularly scheduled work for premium pay and hours of duty purposes.

1.9 How do managers establish work schedules?

A. Except as provided in 1.8B, C, and D, above, the administrative workweek comprises a basic 40-hour workweek with two consecutive nonworkdays. Supervisors will ensure, to the extent possible, that:

- (1) They schedule assignments to tours of duty in advance of the administrative workweek over periods of not less than 1 week.
- (2) They schedule the basic 40-hour workweek on 5 days, Monday through Friday, when possible, and the 2 days outside the basic workweek are consecutive.
- (3) The working hours in each day are the same.
- (4) The basic nonovertime workday does not exceed 8 hours.

(5) The occurrence of holidays does not affect the designation of the basic workweek.

(6) They do not schedule breaks in working hours of more than 1 hour in a basic workday.

B. When a supervisor knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, he/she will reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The supervisor will inform the employee of the change and record the change on the employee's time and attendance report.

C. All work, including overtime, nonovertime Sunday work, and night work that is scheduled as prescribed above is considered regularly scheduled work for purposes of pay and leave administration. A supervisor's failure to schedule a known work requirement as part of an employee's administrative workweek may entitle the employee to premium pay when the supervisor:

- (1) Had specific knowledge of the employee's work requirement in advance of the start of the administrative workweek; and
- (2) Had the opportunity to determine which employee needed to be scheduled or rescheduled to meet the specific days and hours of that work requirement.

D. Supervisors must ensure that all employee requests to vary the normal administrative workweek and approvals thereof are fully documented. Supervisors must maintain a copy of the documentation for record purposes.

1.10 Is it possible to change work schedules for educational purposes?

A. A supervisor may authorize a special tour of duty of not less than 40 hours to permit an employee to take one or more courses in a college, university, or other educational institution, provided that:

- (1) The courses being taken are not made available or provided for by the Service.
- (2) The rearrangement of the employee's tour of duty will not appreciably interfere with the accomplishment of the work required to be performed.
- (3) Additional costs for personal services will not be incurred.
- (4) Completion of the courses will equip the employee to perform more effective work in the Service.

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B. The employee may not receive any premium pay solely because the special tour of duty authorized under this section causes him/her to work on a day, or at a time during the day, for which premium pay would otherwise be payable.

1.11 What is Service policy with respect to meal time and breaks?

A. Meal time. Each employee's tour of duty either does or does not include a meal time. For example, an employee who has an 8-hour tour of duty of 8:30 a.m. to 5:00 p.m., has a 30-minute meal time included in his/her tour of duty. If the employee's 8-hour tour of duty were from 8:00 a.m. to 5:00 p.m., he/she would have a full hour for meal time. However, an employee who is scheduled to work between the hours of 8:30 a.m. and 12:30 p.m., and whose tour of duty consists of 4 hours, does not have a meal time included in his/her tour of duty. An employee may not use his/her scheduled meal time to shorten the workday. It is Service policy that when a work schedule on a given day includes a meal time, the employee may not come in late and work straight through the day without a meal time or come in at the appropriate starting time, work straight through, and leave early. The meal time is unpaid time for a period of rest and eating during the regularly scheduled workday, and supervisors must allow employees to absent themselves from duty during the mealtime.

B. Breaks. A supervisor may, but is not required to, grant employees a 15-minute break during a 4-hour tour of duty, or two 15-minute breaks during an 8-hour tour of duty. This is not an employee right but a discretionary option for management. It is Service policy that employees may not use their rest period to shorten the number of hours in a workday or extend a meal period. That is, they may not come in late or leave early and use their breaks to account for that time.

1.12 What is Service policy with respect to travel and hours of duty? It is Service policy, that, to the maximum extent possible, supervisors will not require employees to travel during nonduty hours. When a supervisor determines that there is no choice but to require travel outside the regularly scheduled workweek, and the result is that the employee will not be paid overtime under 5 CFR 550.112(e), the supervisor will record his/her reasons for ordering travel at those hours and will, upon request, furnish a copy of the statement to the employee concerned. You can find details regarding payment of overtime for travel in 225 FW 7. When a supervisor directs an employee who is on a compressed work schedule to travel or attend training for a period of more than 1 week, he/she must place the employee on a normal work schedule of 8 hours per day, 5 days per week for the pay period(s) during which the employee attends the training or is on travel. When an employee is on travel, the supervisor may make an

exception to this policy in cases where the employee can account for working the scheduled number of hours in each workday during the period of travel. For employees on a compressed work schedule, this will rarely be the case. In situations where the employee is in training, it would be an extremely rare situation in which the employee would be able to account for more than 8 hours a day. A supervisor may not change the administrative workweek of an employee to compensate the employee for travel on a day that would otherwise be a nonworkday.

1.13 What are holidays?

A. Identification of Holidays. The following days are treated as holidays for purposes of pay and leave:

- (1) New Year's Day, January 1.
- (2) Martin Luther King, Jr.'s, Birthday, the third Monday in January.
- (3) Presidents' Day, the third Monday in February.
- (4) Memorial Day, the last Monday in May.
- (5) Independence Day, July 4.
- (6) Labor Day, the first Monday in September.
- (7) Columbus Day, the second Monday in October.
- (8) Veterans Day, November 11.
- (9) Thanksgiving Day, the fourth Thursday in November.
- (10) Christmas Day, December 25.
- (11) Inauguration Day (in the Washington, D.C., metropolitan area, only).
- (12) Any other day designated as a holiday by Federal statute or Executive Order.

B. Determining Holidays. For purposes of pay and leave, the day to be treated as a holiday is determined as follows:

- (1) When a holiday falls on a workday in an employee's basic workweek, that workday is his/her holiday.
- (2) When a holiday falls on any nonworkday outside a full-time employee's basic workweek except Sunday, the day to be treated as the holiday is the workday immediately preceding the holiday. When a holiday falls on a Sunday outside an employee's basic workweek, the day to be treated as the holiday is the workday immediately after the holiday. Regulatory guidance concerning the determination

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of holidays is found in 5 U.S.C. 6103(b) and Executive Order 11582, Observance of Holidays by Government Agencies.

(3) Under 5 U.S.C. 6103(d), the supervisor of an employee on a compressed work schedule may, in the case of a holiday that occurs on a regularly scheduled nonworkday, and notwithstanding any other provision of law or the terms of any collective bargaining agreement, require an employee to observe the holiday on a workday (within the same pay period) other than as provided above, if the supervisor determines that it is **necessary** to do so in order to prevent an adverse agency impact. Adverse agency impact means a reduction of the productivity of the agency; a diminished level of services furnished to the public by the agency; or an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule) (5 U.S.C. 6131(b)). This is an option available to management to prevent an adverse impact on his/her work unit. Supervisors may not employ this provision merely to accommodate the wishes of an employee. Supervisors must maintain written documentation of reasons for making such a determination.

(4) The supervisor of an employee whose workday covers portions of 2 calendar days and who would ordinarily be excused for a holiday will excuse such employee from work on the entire workday that begins on the calendar day of the holiday.

C. Wage System Employees. Regular employees of the Federal Government whose pay is fixed at a daily or hourly rate or on a piecework basis who are excused from work because of the occurrence of a holiday are entitled to the same pay for that day as for days on which an ordinary day's work is performed. Wage system employees are entitled to premium pay for working on a holiday.

D. Entitlement to Pay for the Holiday. An employee who is entitled to pay for the holiday may receive such pay only if he/she is in a pay status either the day before or the day after the holiday. A part-time employee whose regularly scheduled tour of duty does not include the holiday is not entitled to an in-lieu-of day.

E. Required Travel on a Holiday. Employees cannot receive holiday premium pay for travel they perform on a holiday.

1.14 Under what conditions can management authorize administrative dismissals of employees?

A. Regional Directors; Manager CNO; Chief, Law Enforcement; and Assistant Directors may grant absence from duty without charge to leave or without loss of compensation under planned or emergency situations where Service operations must be curtailed. Regional

Directors/Manager CNO may further assign responsibility for granting administrative dismissals as they deem necessary; however, they must document this delegation in writing. This guidance applies to planned or emergency situations where agency operations must be curtailed for the following reasons:

- (1) Extreme weather conditions.
- (2) Interruption of transportation or building services.
- (3) Better utilization of funds or resources.

B. Generally, management expects employees to be prepared to cope with difficult driving conditions and minor disruptions of public transportation systems. However, on occasion, emergency situations that are beyond the control of management or employees may arise and prevent the opening of all or some Federal offices or activities, prevent employees from reporting for work on time, or necessitate the early dismissal of employees. An emergency situation occurring at the worksite may also require management to close an office, or portions thereof, for short periods. A hazardous/emergency situation may result from snow emergencies, severe icing conditions, fires, floods, earthquakes, hurricanes, air pollution, power failures, interruptions of public transportation, or other conditions that affect significant numbers of employees, depending on the specific organization. Supervisors may excuse employee absences (grant administrative leave) when such absences are due to hazardous/emergency situations that are general rather than personal in scope and impact. Some emergencies such as equipment failures, fires, or lapsed appropriations may not affect all employees.

(1) Management officials should rarely authorize group dismissal or closure and only when conditions are severe or where normal agency operations are significantly disrupted.

(2) Management officials will not normally excuse absences for group dismissal for more than 3 workdays for any single situation. If the need to curtail or shut down operations continues longer, supervisors should consider other options, such as details to other duties, working at an alternative work site, or furlough.

(3) Officials responsible for approving a group dismissal must:

(a) Base decisions for dismissal and leave charges on the extent to which employees are prevented from reporting to work or performing normal duties.

(b) Coordinate the impact of dismissals with the local governments and transit systems.

(c) Promote equitable treatment of affected employees.

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C. Hazardous/Emergency Conditions Developing Before the Beginning of the Workday. When an emergency develops prior to the beginning of a workday, employees should monitor the news media for an announcement concerning the continuance or curtailment of Federal operations. The media will report one of the following:

(1) Federal Employees Should Report to Work on Time. This means that offices will open on time and employees must report to work as scheduled. Employees should also report on time for duty in emergency situations when the media has not provided an early announcement concerning the disposition of Federal operations.

(2) Federal Agencies are Operating Under a Delayed Arrival Policy; Reasonable Delays in Reporting for Work Will be Excused. Federal offices will open on time, and nonemergency employees are expected to report for work on time, but reasonable delays in reporting for work will be excused without loss of pay or charge to leave for employees who experience commuting difficulties. (Supervisors will determine the amount of excused absence granted to employees experiencing commuting delays on a case-by-case basis depending upon the employee's commuting distance, the availability and mode of transportation, and the success of other employees in similar situations.) Emergency employees must report for duty on time and remain at work in emergency situations.

(3) Federal Agencies are Operating under an Unscheduled Leave Policy; Employees may Take Leave without Prior Approval. Federal agencies will open on time, but nonemergency employees may take annual leave, accrued compensatory time, or leave without pay (LWOP) without the prior approval of their supervisors. Employees are responsible for notifying their supervisor or other appropriate official as soon as possible when they know they will not be able to report for work. Emergency employees are expected to report for work on time.

(4) Federal Agencies are Operating under a Delayed Arrival/Unscheduled Leave Policy; Reasonable Delays in Reporting for Work will be Excused; and Employees may Take Leave without Prior Approval. Federal agencies will open on time, but reasonable delays in reporting for work will be excused without loss of pay or charge to leave for employees who experience serious commuting delays. Absences of nonemergency employees are chargeable to annual leave, accrued compensatory time, or LWOP without the prior approval of their supervisors. Employees who determine they are not able to report for work must notify their supervisor or other appropriate official as soon as they know they will not be reporting for work. Supervisors must charge such employees leave or compensatory time for the total number

of hours they were scheduled to work that day. Emergency employees are expected to report for work on time.

(5) Federal Agencies are Closed. Nonemergency employees are excused from duty without loss of pay or charge to leave, and emergency employees are expected to report for work on time. The closure of a Federal agency constitutes a nonworkday for which leave may not be charged. Therefore, employees who were scheduled for sick leave, annual leave, or compensatory time on the day of the closure are excused for the entire day without charge to leave. However, employees who are in a nonpay status on the workday before and after the office closure may not be excused; their nonpay status continues through the nonworkday.

D. Emergencies Occurring During the Normal Workday.

(1) Supervisors grant excused absences (administrative leave) to employees on duty at the time of the announced dismissal for the remainder of the day, even if they were scheduled to take leave later in the day.

(2) An employee who leaves (with supervisory approval) after receiving official word of a pending dismissal but before the time set for dismissal must sign for leave for the period beginning with the departure time approved by the supervisor until the employee's official announced dismissal time.

(3) An employee who leaves before receiving official word of a pending dismissal must sign for annual leave, sick leave, or LWOP, as appropriate, for the remainder of the workday. In the event the employee refuses to sign for the appropriate category of leave, the supervisor will charge the employee with AWOL.

(4) An employee who is scheduled to return from leave during the period of dismissal must sign for leave from the time of the initial grant of leave to the time he/she was scheduled to return to duty. The supervisor will grant excused absence to the employee for any continuing absence beyond the time of the employee's scheduled return to duty that is due to the emergency.

(5) The supervisor of an employee who is absent on previously approved annual leave, sick leave, or LWOP for the entire workday must charge the scheduled leave for the entire workday.

(6) The supervisor of an employee who is scheduled to report for work before the time set for dismissal, but who fails to do so, must charge the employee annual leave, sick leave, or LWOP, as appropriate, for the entire workday.

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1.15 What are alternative work schedules?

A. General. Flexible and compressed work schedules are viable alternatives to the traditional work schedule. Each has the potential to improve productivity in the Service, provide greater service to the public, and enhance the quality of life for employees. See Exhibit 1 for a comparison of flexible and compressed work schedules. Where management officials believe that an alternative work schedule may be a viable option in an organizational setting, and before deciding to implement it, they must carefully examine the various types of flexible and compressed work schedules and select the type or combination of types that best suits the needs of the work unit. It is not necessary for everyone in a given work unit to be under the same type of work schedule. Responsible officials should take into account employee interests and needs and consider the advantages and disadvantages of each schedule in terms of management and employee concerns, potential problems, and abuses.

B. Establishment of Alternative Work Schedules. Once the Regional Director; Manager CNO; Chief, Law Enforcement; or Assistant Director makes a determination that alternative work schedules will be permitted within his/her area of responsibility, he/she must write a plan describing the framework of the program, taking into account the parameters established in this chapter. The plan should establish the type(s) of work schedule(s) that can be used and procedures to administer the program within his/her area of responsibility. Bargaining unit employees may participate in an alternative work schedule program only under the terms of the negotiated agreement (5 U.S.C. 6130(a)(1) and (2)). A supervisor who wants to implement an alternative work schedule program for these employees must negotiate the establishment and terms of the program with the exclusive representative of the bargaining unit. In an unorganized unit, a majority of affected employees must vote to be included in a compressed work schedule program (see 5 U.S.C. 6127(b)), if the supervisor intends to require participation in the compressed work schedule. A supervisor may unilaterally install flexible work schedule programs in an unorganized unit because there is no requirement for a vote of affected employees.

C. Termination of Alternative Work Schedules. Although responsibility for the establishment of alternative work schedules rests with Regional and Assistant Directors, any official in the supervisory chain may terminate an alternative work schedule when doing so is deemed to be in the best interest of the Service. If a management official finds that a particular schedule has had an adverse impact on the Service, he/she must promptly determine not to continue the schedule. If establishment of the alternative work schedule was negotiated, the

appropriate official may reopen the agreement to seek its termination. If an impasse results, the dispute goes to the Federal Service Impasses Panel, which will determine within 60 days if management's determination is supported by evidence. If it is, the Panel must act in favor of management. Management cannot terminate the alternative work schedule until agreement is reached or the Panel acts (see 5 U.S.C. 6106 and 6131(a)(3)(D)).

D. Core Time. All Service alternative work schedules have a core time of 9:00 a.m. to 3:00 p.m. (local time). Officials may extend the core time within their areas of responsibility in order to meet operational needs, but they may not shorten the core time, except in limited circumstances. See additional information concerning core time for flexible work schedules at 1.16E below.

E. Timekeeping.

(1) General. The primary objective of time and attendance systems is to ensure that employees' hours worked, hours in pay status, and hours absent are properly reported. To achieve this objective, management should have in place internal control systems that provide reasonable assurance that (1) time and attendance transactions are properly authorized and approved and (2) time and attendance data is completely and accurately recorded and retained. Primary responsibility for authorizing and approving time and attendance transactions generally rests with employees' supervisors, who approve employees' time and attendance reports. Timekeepers and supervisors must be aware of the work time or absence of employees for whom they are responsible to ensure the reliability of time and attendance data. To the extent practical, changes to employees' normal work schedule should generally be approved prior to the implementation of the change. Unanticipated changes should be approved as soon as possible.

(2) Timekeeping Under an Alternative Work Schedule. Under an alternative work schedule, supervisors must establish a time accounting method that provides them with affirmative or personal knowledge of each employee's entitlement to pay by showing the number of hours of duty, attendance, and the nature and length of absences. When a supervisor cannot approve from personal knowledge the entitlement to pay for an employee on an alternative work schedule, there are a number of time accounting options available that may be used to ensure adequate controls. Examples are provided below:

(a) Work Report System. A portion of the time and attendance report form may be used to record arrival and departure times, as well as any other exceptions to the normal workday.

(b) Sign-in/Sign-out Sheets. Each employee is required to enter his or her name, time of arrival and departure, and other exceptions to the normal workday.

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(c) Automatic Time Recording Equipment. These systems may be used for flexible work schedule programs in Washington, DC, and elsewhere (see 5 U.S.C. 6125).

(d) Work Output Assessment. For employees permitted to telecommute, supervisors determine the reasonableness of the work output for the time spent and also make occasional telephone calls or visits during the employee's scheduled work time.

1.16 What are flexible work schedules?

A. General. This type of work schedule generally requires an 8-hour nonovertime workday that is composed of core time and flexible time. During core time, employees must be on duty or on approved leave, or otherwise account for any absence during this period. The 6-hour period designated as core time includes a 30-minute lunch break. Supervisors may approve a request for an earlier arrival or later departure time that changes the core hours when operations demands warrant and support such a change. In any event, to avoid unnecessary payment of premium pay, supervisors may establish flexible schedules that are worked only between the hours of 6:00 a.m. and 6:00 p.m., unless there is an operational necessity that requires employees to work outside of those hours. In such a case, the supervisor must document in writing the reasons for scheduling employees to work before 6:00 a.m. or after 6:00 p.m. Supervisors may not approve an employee request to work outside these hours merely for the personal convenience of the employee. Flexible work schedules require a controlled work environment, place more responsibility on both the supervisor and employees and require a greater measure of trust and confidence between supervisor and the participating employees. It is not necessary for all employees in a work unit to be participants when there are legitimate managerial reasons for allowing some employees within the work unit to participate and others not.

B. Basic Work Requirement. The basic work requirement of a flexible work schedule is the number of hours, excluding overtime hours, an employee must work or otherwise account for by use of leave, credit hours, holiday hours, excused absence, compensatory time off, or time off as an award. Within the Service, whenever possible, supervisors must establish a basic work requirement that includes a Monday through Friday tour of duty. Furthermore, to the maximum extent possible, they must establish a basic work requirement that does not include hours that would obligate the Service to pay premium pay such as night differential or Sunday premium pay. Supervisors may not establish a basic work requirement that includes Saturday or Sunday for the purpose of allowing an employee to travel on these days, and consequently, receive pay when traveling.

(1) A full-time employee must work 80 hours during a biweekly pay period, or a multiple of this requirement, as determined by the supervisor. Under a flexible work schedule, a supervisor may also establish daily or weekly basic work requirements.

(2) A part-time employee works fewer hours than a full-time employee within a specified period of time, as determined by the supervisor, consistent with 5 U.S.C. 3401 through 3408 and 5 CFR 340.

C. Tour of Duty.

(1) In general, the tour of duty comprises all hours and days for which flexible and core hours have been designated, including those days within a maxiflex schedule for which only flexible hours are scheduled (see Exhibit 2). The tour of duty defines the limits within which an employee must complete his or her basic work requirement. Overtime hours are not included in the definition of a tour of duty for employees under alternative work schedules.

(2) The types of flexible work schedules vary significantly. Regional Directors; CNO Manager; Chief, Law Enforcement; and Assistant Directors have the authority to establish flexible and core hours to meet their needs, within the parameters of current regulation and this chapter. They may delegate this authority. Exhibit 2 suggests some possible alternative work schedules. These models are not all-inclusive; they illustrate alternatives that officials may adapt to fit their specific needs.

(3) Temporary changes in the tour of duty may be made under the terms of a negotiated agreement, if applicable, or this chapter.

D. Administering and Implementing Flexible Schedules. The Regional Director's; CNO Manager's; Chief, Law Enforcement's; and Assistant Director's plan for administering a flexible work schedule program must be tailored to the needs and desires of the work unit, within the limits of regulatory guidance. As a minimum, the plan's procedures must specifically include language that addresses the following:

(1) The employees or groups of employees excluded from participation due to the nature of their work or to the unusual demands on certain elements of the work unit.

(2) The days and times during which employees may accomplish work.

(3) If employees will be required to work specific hours during flexible time bands on a temporary or irregular basis;.

(4) If employees who will be permitted to choose starting and quitting times within the established tour of duty with or

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without prior supervisory approval, must select one of several predetermined tours, or submit a schedule in advance for approval.

(5) Timekeeping and attendance accounting method. Before allowing employees to report for duty at varying times as is characteristic of a flexible schedule, supervisors should ensure that sufficient staff is available for support services, telephone coverage, or to conduct business by limiting participation, if necessary, or by establishing a schedule that will provide for office coverage during office hours.

E. Core Time. Although all Service alternative work schedules have a core time of 9:00 a.m. to 3:00 p.m., supervisors of employees on flexible work schedules may adjust the core time around the meal time to accommodate an employee's desire to take a longer meal period. For example, supervisors may consider their employees to have two flexible bands during the day; one in the morning and one in the afternoon. An employee on a flexible work schedule may, therefore, have morning core hours that are from 9:00 a.m. to 11:00 a.m., and afternoon core hours that are from 1:00 p.m. to 3:00 p.m. Supervisors may not establish a later than 9:00 a.m. starting time, or a core time in which an employee can end his/her workday earlier than 3:00 p.m. unless there are compelling work-related circumstances that would dictate such a deviation from the stated policy. In such a case, the management official must document in writing the work-related circumstances necessitating a deviation from this policy.

F. Credit Hours.

(1) Only employees who are on a flexible work schedule program may work credit hours. Employees on any other type of work schedule may not earn or use credit hours. Furthermore, unless the appropriate Regional Director; CNO Manager; Chief, Law Enforcement; or Assistant Director specifies the use of credit hours in his/her flexible work schedule plan, employees may not earn or use credit hours. When allowable by applicable policy, a supervisor may approve an employee's request to work credit hours to be applied to another workday, workweek, or biweekly pay period.

(2) Employees elect to work credit hours, however, they must receive the approval of their supervisor to earn or use credit hours. Credit hours are distinguished from overtime hours in that management does not officially order and approve them in advance; however, an employee must obtain supervisory approval before earning or using credit hours. An employee must work credit hours within his or her nonovertime tour of duty (see 1.16B(1)).

(3) When an employee uses credit hours, such hours must count as a part of the basic work requirement to which they are applied. An employee receives his or her rate of basic

pay for credit hours, and an employee may not use credit hours to create or increase an entitlement to overtime pay.

(4) In the Service, an employee may earn up to 2 credit hours per workday or 8 credit hours per nonworkday. A part-time employee may earn a maximum of one-fourth of the hours in his or her biweekly work schedule.

(5) When approved by the supervisor, employees can generally earn credit hours between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday. However, they may earn credit hours on Saturday and Sunday only if the supervisor includes those days in the tour of duty. The supervisor may add these days to the tour of duty strictly for the purpose of earning credit hours. The supervisor may also limit the number of hours that an employee can earn on these days.

(6) Credit hours may not be used in advance of earning them.

(7) A full-time employee can carry over a maximum of 24 credit hours from one biweekly pay period to the succeeding one. A part-time employee can carry over credit hours equal to one-fourth of his or her biweekly work requirement. Employees automatically forfeit any hours in excess of these amounts.

(8) When an employee is no longer covered by a flexible work schedule program, he or she must be paid for accumulated credit hours at his or her current rate of pay. There is a limit of a maximum of 24 hours for payment of accumulated credit hours for a full-time employee. For a part-time employee, the limit is one-quarter of the employee's biweekly work requirement. An employee may not receive compensation for credit hours for any other reason (e.g., excess, unused credit hours that cannot be carried forward into the next pay period).

(9) An employee may not receive compensation for overtime pay, Sunday premium pay, or holiday premium pay for credit hours. Credit hours must always be part of the employee's nonovertime basic work requirement.

(10) Whether an employee is entitled to night pay for credit hours on the day on which such hours are earned (worked) depends on the rules for night pay (see 5 U.S.C. 6123(c)). Credit hours must be considered daytime hours whenever possible.

(11) In the event of a closure or early dismissal before the beginning of an employee's daily tour of duty, an employee may retain credit hours that have not been used, to the extent permitted by law and regulation. If an early dismissal occurs during or after the employee's daily tour of duty, the supervisor must charge the employee for credit hours that have already been used.

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(12) Employees cannot earn credit hours at an alternative work site. Employees can only earn credit hours for work performed at their official duty station of record. Supervisors may not approve credit hours for periods of travel that are performed outside of the regularly scheduled tour of duty. Under no circumstances can credit hours be earned while an employee is in a travel status.

(13) Although SES members may participate in flexible work schedule programs, they may not accumulate credit hours (see 5 CFR 610.408).

G. Overtime Work Determinations.

(1) For employees under a flexible work schedule program, overtime hours are all hours of work in excess of 8 hours in a day or 40 hours in a week that are **officially ordered and approved in advance** by management (see the definition of "overtime hours" at 5 U.S.C. 6121(6)). The requirement that overtime hours be officially ordered and approved in advance also applies to employees who are nonexempt under the FLSA. Employees on flexible work schedules may not earn overtime pay as a result of including "suffered or permitted" hours (under the FLSA) as hours of work (see 5 CFR 551.401(a)(2)).

(2) Management may order an employee who is covered by a flexible work schedule program to work hours that are in excess of the number of hours the employee planned to work on a specific day. If the hours ordered to be worked are not in excess of 8 hours in a day or 40 hours in a week at the time they are performed, the supervisor, at his/her discretion, may permit or require the employee to:

(a) Take time off from work on a subsequent workday for a period of time equal to the number of extra hours of work ordered.

(b) Complete his/her basic work requirement as scheduled and count the extra hours of work ordered as credit hours.

(c) Complete his/her basic work requirement as scheduled if Regional or Assistant Director's plan permits. This will result in an employee entitlement for compensation at the rate of basic pay for any hours of work equal to or less than 8 hours in a day or 40 hours in a week. An employee would also be entitled to overtime pay for hours of work ordered in excess of 8 hours in a day or 40 hours in a week.

H. Compensatory Time Off. Compensatory time off is time off on an hour-for-hour basis in lieu of overtime pay. For employees under a flexible work schedule, the overtime hours of work may be regularly scheduled or irregular or occasional. A supervisor may grant compensatory time off in lieu of overtime pay at the request of the employee (including prevailing rate employees and nonexempt

employees) under a flexible work schedule (see 5 U.S.C. 6123(a)).

I. Night Pay (General Schedule Employees). If an employee's tour of duty includes 8 or more hours available for work during daytime hours (i.e., between 6 a.m. and 6 p.m.), he/she is not entitled to night pay even though he/she voluntarily elects to working during hours for which night pay is normally required (i.e., between 6 p.m. and 6 a.m.).

J. Night Differential (Prevailing Rate Employees). A prevailing rate employee cannot receive night differential solely because he/she elects to work credit hours, or elects a time of arrival or departure at a time of day when night differential is otherwise authorized, except that prevailing rate employees are entitled to night differential for regularly scheduled nonovertime work when a majority of the hours of a flexible work scheduled for a daily tour of duty occur at night (see 5 U.S.C. 5343(f) and 6123(c)(2)).

K. Holiday Pay (When No Work is Performed)

(1) Under a flexible work schedule program, a full-time employee who is relieved or prevented from working on a day designated as a holiday (or a day designated as an "in lieu of" holiday) by Federal statute or Executive Order, will receive his/her rate of basic pay on that day for 8 hours (see 5 U.S.C. 6124).

(2) If a holiday falls on a day during a part-time employee's tour of duty, the employee is on a flexible work schedule, and the employee is relieved or prevented from working on that day, the employee will receive his or her rate of basic pay for the typical, average, or scheduled number of hours of work for that day toward his/her basic work requirement (not to exceed 8 hours). If a part-time employee has maintained a reasonably consistent scheduled for several pay periods, the employee may be paid for the number of hours he or she would have worked had the holiday not relieved or prevented him/her from working (not to exceed 8 hours). If a part-time employee has no typical schedule, the supervisor may average the number of hours worked in prior weeks on days corresponding to the holiday to determine an employee's pay entitlement for that holiday (not to exceed 8 hours) (see 5 CFR 610.405).

(3) A full-time employee on a flexible work schedule who performs nonovertime work on a holiday (or a day designated as the "in lieu of" holiday) will receive his/her rate of basic pay plus premium pay equal to his/her rate of basic pay for that holiday work. Holiday premium pay is limited to a maximum of 8 hours. A supervisor must designate the 8 holiday hours applicable to each employee under a flexible work schedule. The 8 hours that the supervisor designates must include all applicable core hours.

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(4) An employee under a flexible work schedule who works during nonovertime and nonholiday hours that are part of the employee's basic work requirement on a holiday will receive his/her rate of basic pay for those hours. For example, an employee who works 10 hours on a holiday (including 1 hour of overtime work ordered by a supervisor) and who has a 9-hour basic work requirement on that day would earn holiday premium pay for the 8 holiday hours designated by the supervisor, his/her rate of basic pay for 1 hour (within the basic work requirement), and 1 hour of overtime pay.

(5) A part-time employee under a flexible work schedule can receive holiday premium pay only for work that he/she performs during his/her basic work requirement on a holiday (not to exceed 8 hours). A part-time employee who is scheduled to work on a day designated as an "in lieu of" holiday for full-time employees under 5 U.S.C. 6103(b) or section 3 of E.O. 11582, is not entitled to holiday premium pay for work performed on that day.

L. Pay for Sunday Work.

(1) A full-time employee who performs regularly scheduled nonovertime work, a part of which is performed on Sunday, is entitled to Sunday premium pay for the entire daily tour of duty, not to exceed 8 hours. It is possible for an employee to have two daily tours of duty that begin or end on the same Sunday.

(2) A full-time employee must receive Sunday premium pay for the entire daily tour of duty, up to 8 hours, based upon his/her election to work any flexible hours on a Sunday. However, a supervisor must preclude such employees from working flexible hours on a Sunday unless he/she documents in writing an operational necessity for allowing the Sunday work.

(3) A part-time employee is not entitled to Sunday premium pay (see 5 U.S.C. 5546(a) and 46 Comp. Gen 337 (1966)).

M. Paid Time Off.

(1) A supervisor must charge paid time off during an employee's basic work requirement to the appropriate leave category, credit hours, compensatory time off, or to excused absence, if warranted.

(2) There is no requirement that employees use flexible hours for medical or dental appointments or other personal matters if the employee wishes to charge this time to an appropriate leave category. An employee may choose to charge time off during flexible hours to an appropriate leave category or use credit hours when time off is scheduled during flexible hours in order to preserve leave.

(3) An employee may apply no more sick or annual leave to a given day than he/she is scheduled to work on that day.

In work units in which there is no requirement for employees to schedule their daily work hours in advance, a supervisor must develop written policies to ensure that sick leave is not abused.

N. Excused Absence.

(1) Supervisors may grant excused absence with pay to employees covered by a flexible work schedule program under the same circumstances they would grant excused absence to employees covered by other work schedules. For employees on a flexitour arrangement, the amount of excused absence to be granted should be based on the employee's established flexitour in effect for the period covered by the excused absence. To minimize the problem of determining the amount of excused absence to grant employees on schedules allowing daily variation, a supervisor may wish to establish the former fixed work hours or customer service hours as a point of reference.

(2) If a supervisor determines that he/she should grant excused absence to employees based upon individual patterns of arrival and departure, he/she may use the following methods for discerning these patterns:

(a) Constant Pattern of Arrival. The majority of employees tend to arrive within 5 to 10 minutes of the same time each day. Once an employee has established a pattern, his/her supervisor should use it as a point of reference.

(b) Predominant Pattern of Arrival. If an employee maintains a schedule in which one particular arrival time predominates, the supervisor should use this arrival time to determine the amount of excused absence to be granted.

(c) Variable Pattern of Arrival. Where there is such variation in an employee's arrival time that there is no discernible pattern, the supervisor should compute the mathematical average of the employee's arrival time for the previous 2-week period and use the average arrival time as a reference for determining excused absence.

(3) When employees who would otherwise be required to report to work are excused from work because of an office closure due to a weather emergency or furlough, supervisors may not grant another nonworkday to other employees who do not have a scheduled workday(s) during the office closure or furlough.

O. Travel.

(1) When an employee under a flexible work schedule program is in a travel status during the hours of his/her regularly scheduled administrative workweek, including regularly scheduled overtime hours, that time is considered to be hours of work and must be used for the purpose of overtime pay calculations, as applicable. Supervisors only have the authority to schedule overtime hours for actual

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work, and, for most employees, travel is **not** work when it is conducted outside of normal duty hours.

(2) Generally, supervisors must place employees on a traditional fixed schedule (8 hours a day, 40 hours a week) during pay periods when they travel. However, when a supervisor determines that an employee who is scheduled to be away from the office for a period less than 1 workweek, and he/she is able to account for and work the hours he/she would normally work while at the official duty station), the supervisor may allow the employee to remain on his/her regularly scheduled tour of duty. However, in any case, if the travel is going to extend over a period of more than 1 week, the supervisor must place the employee on a traditional fixed schedule for the entire pay period.

(3) Because in most cases employees who are exempt from the provisions of the Fair Labor Standards Act may not receive compensation for time spent in a travel status outside regularly scheduled hours, supervisors **must** determine what constitutes regularly scheduled work for employees who are on a flexible work schedule when they travel.

(4) Supervisors must also determine the number of corresponding hours for FLSA-nonexempt employees on a nonworkday under the overtime provisions in 5 CFR 551.422(a)(4) which states that time spent traveling will be considered hours of work if: ... (4) An employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on nonworkdays that correspond to the employee's regular working hours. Also, see 5 CFR 610.111(d). For further information regarding compensation for travel, please see 225 FW 7.

(5) Supervisors must determine the hours of work for time spent in a travel status outside the regularly scheduled administrative workweek and away from the official duty station in accordance with 5 CFR 550.112(g) or 5 U.S.C. 5544 (for prevailing rate employees). For nonexempt employees, supervisors must apply both 5 CFR 550.112(g) or 5 U.S.C. 5544 **and** 5 CFR 551.422 (see 5 CFR 551.401(h)) when determining the total number of hours of work for travel outside the regularly scheduled administrative workweek away from the official duty station.

(6) An employee may not earn credit hours for travel because travel in connection with Government work is not voluntary in nature. Therefore, travel itself does not meet the definition of credit hours in 5 U.S.C. 6121(4), which provides that credit hours are hours within a flexible work schedule in excess of the employee's basic work requirement which the employee elects to work so as to vary the length of a workweek or a workday. In the event travel time creates an entitlement to premium pay, the employee must receive compensation by payment of

overtime pay or under the rules for granting or requiring compensatory time off.

(7) For more detailed information concerning travel for FLSA exempt and nonexempt employees, please see 225 FW 7.

P. Examples of Flexible Work Schedules. Models of flexible work schedules are in Appendix A.

Q. Leave Administration. Under a flexible work schedule:

(1) Supervisors may allow their employees to be absent during core hours and to make up those hours during the flexible hours on the same workday as the approved absence from core hours. If a supervisor does not approve an employee's request to make up those hours, the supervisor must determine the appropriate type of leave for the absence (i.e., leave, compensatory time, or excused absence, if warranted).

(2) There is no requirement for an employee to use nonduty hours for medical or dental appointments or other personal matters if he/she wishes to charge this time to leave and the supervisor approves the leave.

(3) An employee may not request and a supervisor may not charge an employee for more sick or annual leave on a given day than he/she is scheduled to work on that day. In other words, if an employee is scheduled to work 8 hours on a given day, the maximum amount of leave the employee may sign for is 8 hours.

R. Temporary Duty. When an employee covered by a flexible work schedule program is assigned to a temporary duty station using another schedule, either traditional or alternative, the employee must follow the schedule used at the temporary work site. The employee's supervisor must ensure that the employee is on the same work schedule for the entire pay period.

S. Application of Flexible Work Schedules in Unorganized Units. Supervisors may unilaterally install flexible work schedule programs in unorganized units, when the appropriate Regional Director; CNO Manager; Chief, Law Enforcement; or Assistant Director has a written plan that authorizes flexible work schedules. There is no requirement for a vote by affected employees.

T. Appeals to the Office of the Special Counsel (OSC).

(1) Within the guidelines established within this chapter, 5 U.S.C. 6132 protects an employee's right to elect a time of arrival or departure, to work or not work credit hours, and/or to request or not to request compensatory time off in lieu of payment for overtime hours under a flexible work schedule program.

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(2) Employees may contact the OSC and file a complaint with that agency regarding allegations of coercion prohibited by 5 U.S.C. 6132. Violations of 5 U.S.C. 6132 are subject to investigation by the OSC as provided in 5 CFR 1810.

1.17 What are compressed work schedules?

A. The basic work requirement of a compressed work schedule is the number of hours, excluding overtime hours, an employee must work or account for by charging leave or otherwise:

(1) A full-time employee is required to work 80 hours in a biweekly pay period. The employee must complete the 80 hours in fewer than 10 workdays in a biweekly pay period (see 5 U.S.C. 6121(5)(A)).

(2) A part-time employee works fewer than 80 hours in a biweekly pay period. The employee must complete the required hours in fewer than 10 workdays in a biweekly pay period (see 5 U.S.C. 6121(5)(B)).

B. Work Schedule. The supervisor defines the tour of duty for employees under a compressed work schedule by establishing a fixed work schedule for each employee. Supervisors arrange compressed work schedules to enable employees to fulfill their basic work requirements in less than 10 days during the pay period. Because a compressed work schedule is always a fixed schedule, there are no provisions for employee flexibility in reporting or quitting times under a compressed work schedule. Some suggested models of these schedules are found in Exhibit 3. With supervisory approval, an employee may switch his/her scheduled nonworkday permanently or temporarily (for one pay period or more).

C. Credit Hours. There is no legal authority for credit hours under a compressed work schedule program. Accordingly, employees who work a compressed work schedule may not earn or use credit hours. (See 5 U.S.C. 6121(4).)

D. Overtime Work. Under a compressed work schedule program, a full-time employee who is exempt from the FLSA, overtime hours are all officially ordered and approved hours of work in excess of the compressed work schedule. For a full-time employee who is covered by the FLSA (nonexempt), overtime hours also include any hours such an employee works outside the compressed work schedule that are "suffered or permitted." For a part-time employee, overtime hours are hours in excess of the compressed work schedule for a day (but must be more than 8 hours) or for a week (but must be more than 40 hours).

E. Compensatory Time Off. A supervisor may approve requests for compensatory time off in lieu of overtime pay only for irregular or occasional overtime work by an employee who is not an SES member. A manager may not approve a request for compensatory time off for an SES

member. A supervisor may apply mandatory compensatory time off only to employees who are not prevailing rate employees and employees who are exempt from the FLSA whose rate of basic pay is greater than the rate for GS-10, step 10, and only in lieu of overtime pay for irregular or occasional overtime work (see 5 U.S.C. 5543(a)(2)).

F. Night Pay (General Schedule employees). The rules under 5 U.S.C. 5545(a) and 5 CFR 550.121 and 122 apply. An employee must receive night pay for regularly scheduled nightwork performed between the hours of 6:00 p.m. and 6:00 a.m. It is Service policy that a supervisor must fix the schedule of an employee on a compressed work schedule so that the employee does not begin his/her workday prior to 6:00 a.m. or end his/her workday after 6:00 p.m., unless there is a compelling mission-related reason for doing so. In such case, the supervisor must maintain written documentation justifying the reason for making such a determination.

G. Night Differential (Prevailing Rate employees). The regular rules under 5 U.S.C. 5343(f) apply in determining the majority of hours for entitlement to night pay for prevailing rate employees. It is Service policy that supervisors of prevailing rate employees fix their work schedules so as to avoid an obligation to pay night differential unless there is a compelling mission-related reason for incurring such an obligation. In such case, the supervisor must maintain written documentation justifying the reason for making such a determination.

H. Holiday Pay (When No Work is Performed).

(1) A full-time employee on a compressed work schedule who is relieved or prevented from working on a day designated as a holiday (or an "in lieu of" holiday under 5 U.S.C. 6103(b) or (d) or section 3 of E.O. 11582) by Federal statute or Executive Order is entitled to his/her rate of basic pay for the number of hours of the compressed work schedule on that day (see 5 CFR 610.406(a)).

(2) If a holiday falls on a day during a part-time employee's scheduled tour of duty, and the employee is relieved or prevented from working on that day, the employee is entitled to his/her rate of basic pay for the number of hours he/she normally would have been scheduled to work that day (see 5 CFR 610.406(b)).

(3) Determining "in Lieu of" Holidays when Holidays Fall on Nonworkdays

(a) Nonworkdays Other than Sunday. Except as provided in subparagraphs (b) and (c) below, if a holiday falls on a nonworkday of the employee, the employee's preceding workday will be the designated "in lieu of" holiday (see 5 U.S.C. 6103(b)). For example, Monday, February 18, is a legal holiday, and for a full-time employee on a compressed work schedule who is not scheduled to work on that day, Friday, February 15, is the "in lieu of" holiday.

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(b) **Sunday Nonworkday.** Except as provided in subparagraph (c) below, if the holiday falls on the Sunday nonworkday of an employee, the subsequent workday will be the employee's designated "in lieu of" holiday (see section 3 of E.O. 11582).

(c) Under the authority to determine the administrative workweek, a supervisor may change an employee's schedule (and scheduled days off) for **operational** reasons. Supervisors must document and communicate schedule changes to employees in advance of the start of an administrative workweek except if a supervisor makes a determination after the start of an administrative workweek that the Service would be seriously handicapped in carrying out its functions or that costs would be substantially increased if he/she did not change the employee's administrative workweek.

I. Pay for Holiday Work.

(1) A full-time employee under a compressed work schedule who performs nonovertime work on a holiday (or a day designated as the "in lieu of" holiday) is entitled to basic pay plus premium pay equal to his/her rate of basic pay for the work that is not in excess of the employee's compressed work schedule for that day (5 CFR 610.407). An employee who is required to travel on a holiday cannot receive any compensation for the time spent in a travel status. This includes compensatory time, overtime, holiday premium pay, and credit hours.

(2) Because a compressed work schedule is a fixed schedule, supervisors may not require employees to move their regularly scheduled days off solely to avoid payment of holiday premium pay or to reduce the number of holiday hours included in the basic work requirement (see 5 U.S.C. 6101(a)(3)(E)).

(3) A part-time employee under a compressed work schedule is entitled to holiday premium pay only for work performed during his/her compressed work schedule on a holiday. A part-time employee scheduled to work on a day designated as an "in lieu of" holiday for full-time employees is not entitled to holiday premium pay for work performed on that day because part-time employees are not entitled to "in lieu of" holidays (5 CFR 610.406(b)).

J. Pay for Sunday Work.

(1) A full-time employee who performs nonovertime work during a tour of duty, a part of which is performed on Sunday, must receive Sunday premium pay for his or her entire tour of duty on that day.

(2) A part-time employee is not entitled to premium pay for Sunday work (see 5 U.S.C. 5546(a) and 46 Comp. Gen. 337 (1966)).

K. Excused Absence. All compressed work schedules are fixed schedules. Guidance for the administration of excused absence is found in 226 FW 2. However, for the purposes of this chapter, "regularly scheduled administrative workweek" means the compressed work schedule under which an employee is covered. Supervisors may grant excused absences with pay to employees under a compressed work schedule under the same circumstances as they would grant excused absences to employees who are covered by other work schedules.

L. Temporary Duty. When an employee covered by a compressed work schedule program is assigned to a temporary duty station using another schedule, the employee's supervisor may allow the employee to continue the schedule used at his/her permanent work site if suitable or require the employee to change the schedule to conform to operations at the temporary work site. If the temporary work site does not employ a compressed work schedule, the supervisor must place the employee on a work schedule that coincides with the work schedule at the temporary site.

M. Travel.

(1) When an FLSA-exempt or nonexempt employee under a compressed work schedule is in a travel status during the hours of his/her regularly scheduled administrative workweek, including regularly scheduled overtime hours, that time is hours of work and must be used for the purpose of overtime pay calculations, as applicable. However, it is imperative that supervisors and employees understand that management schedules overtime hours for work, **not** travel.

(2) For employees under a compressed work schedule, "regularly scheduled administrative workweek" means the compressed work schedule as it applies to an employee and any regularly scheduled overtime work. The supervisor must determine the number of corresponding hours for an employee on a nonworkday for the purpose of determining hours of work for travel under the FLSA overtime provisions in 5 CFR 551.422(a)(4).

(3) For FLSA-exempt employees under compressed work schedules, hours of work for time spent in a travel status outside the regularly scheduled administrative workweek and away from the official duty station are determined in accordance with 5 CFR 550.112(g) or 5 U.S.C. 5544 (for prevailing rate employees). For nonexempt employees, the total number of hours of work for travel outside the regularly scheduled administrative workweek and away from the official duty station are determined by applying both 5 CFR 550.112(g) or 5 U.S.C. 5544 and 5 CFR 551.422 (see 5 CFR 551.401(h)).

(4) Generally, supervisors must place employees on a traditional fixed schedule (8 hours a day, 40 hours a week) during pay periods when they travel. However, this may not

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always be feasible. When a supervisor determines that it is not in the best interest of the Service to do this (e.g., an employee is going to be away from the office for a 2-day period, and he/she is able to account for and work the hours he/she would normally work while at the official duty station), the supervisor may allow the employee to remain on his/her regularly scheduled tour of duty; however, in any case, if the travel is going to extend over a period of more than 1 week, the supervisor **must** place the employee on a traditional fixed schedule for the entire pay period.

N. Application of Compressed Work Schedules.

(1) Under 5 U.S.C. 6127, a compressed work schedule may not be established in an unorganized unit unless a majority of employees in the work unit who would be included vote to be included. For purposes of this vote, a majority is obtained when the number of affirmative votes exceeds 50 percent of the number of employees and supervisors in the work unit proposed for inclusion in a compressed work schedule. For example, if 199 employees and supervisors are in a work unit for which management proposes a compressed work schedule program, 100 affirmative votes (regardless of the actual number of employees and supervisors who vote) are required for the unit to initiate a compressed work schedule. If participation in the compressed work schedule is voluntary, a vote is not necessary because employees who elect not to participate are not included and are, therefore, unaffected.

(2) In work units in which employees are exclusively represented by a labor organization, but in which certain employees (e.g., personnelists) are excluded from the unit, only those covered employees in the unit are bound by the terms of negotiations establishing a compressed work schedule program. Employees in the organization not in the unit are entitled to vote for or against inclusion in the schedule. All employees who would be affected by the outcome should have an opportunity to cast a vote, and the outcome of the vote is binding upon all employees except those exempted by management because of personal hardship. A secret ballot will be used for the purpose of voting.

O. Determining Hardships Under Compressed Work Schedules.

(1) 5 U.S.C. 6127(b)(2) requires that any employee for whom a compressed work schedule would impose a personal hardship be excluded from the schedule or be reassigned. Each supervisor whose office operates under a compressed work schedule will provide a mechanism by which an employee may have an opportunity to request exclusion from the schedule based on personal hardship. The decision whether or not to grant the request is the responsibility of the supervisor who will communicate the decision to the employee in writing no later than 10 calendar days after receipt of the request.

(2) Supervisors should be sensitive to the possibility that a compressed work schedule could have an adverse effect on certain employees, particularly disabled employees and those who are responsible for the care of disabled or dependent children or family members. Depending on the facts and circumstances in the individual case, other valid personal hardship situations may occur that could be grounds for excusing an employee from working under a compressed work schedule program. In establishing a compressed work schedule, it may be possible to structure the schedule in such a way as to allow some degree of flexibility so that employees in special circumstances will be able to adapt the schedule to their particular needs.

P. Appeals to the Office of Special Counsel.

(1) 5 U.S.C. 6132 protects an employee against coercion when voting for or against inclusion of his/her work unit in a compressed work schedule program and affirms the right of the employee to request, because of hardship, not to participate in a compressed work schedule program. (Also see 5 U.S.C. 6127(b).)

(2) Employees may contact the Office of Special Counsel to file a complaint regarding allegations of coercion prohibited by 5 U.S.C. 6132. Violations of 5 U.S.C. 6132 are subject to investigation by the Special Counsel.

Q. Timekeeping Under a Compressed Work Schedule Program. Compressed work schedules require significant attention to the proper completion of time and attendance records. Timekeepers must be knowledgeable of the appropriate procedures for reporting time and attendance under a compressed work schedule program. Employees can obtain complete details from the appropriate payroll coordinator.